

D/L- 10
24/02/2026
Ct. No.-19
Aritra

WPA 4114 of 2026

**Jayanti Patra & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Gopal Chandra Ghosh, Sr. Adv.
Mr. R.K. Mondal
Ms. Sunandana Saha

....for the petitioners

Mr. Jayanta Samanta
Mr. Subhendu Sengupta

....for the State

Mr. Shahan Shah
Mr. Aninda Bhattacharyay
Mr. Sk. Abumusa

....for the respondent No.7

Affidavit of service filed in Court today is taken on record.

The petitioners claim to be in possession of Dag No.5575 by constructing a structure thereupon. The petitioners are aggrieved by the notice dated January 28, 2026 issued by the Assistant Engineer, Keleghai Bridge Highway Sub-Division, Public Works (Roads) Directorate under Section 10(1) of the West Bengal Highways Act, 1964.

Mr. Ghosh, learned senior advocate appearing for the petitioners submits that the plot where the petitioners have raised construction belongs to the Irrigation & Waterways Department of the Government of West Bengal and, therefore, the Assistant Engineer lacks jurisdiction to

initiate a proceeding by issuing a notice under Section 10(1) of the 1964 Act.

Mr. Samanta, learned advocate appearing for the State submits that upon field enquiry it was found that the petitioners, the private respondents along with others have encroached a portion of the metal road being Plot No.5577, which is maintained by the PWD (Roads).

Heard the learned advocate for the private respondent.

After going through the field enquiry report it *prima facie* appears that it was found upon enquiry that a portion of the PWD (Roads) being Dag No.5577 has been encroached by some persons including the petitioners and the private respondent.

In view thereof, this Court is not inclined to accept the contention of Mr. Ghosh that the notice issued under Section 10(1) of the 1964 Act is without jurisdiction. However, if the encroachment is not removed within the time limit mentioned in the notice under Section 10(1) of the 1964 Act, the matter is to be forwarded to the concerned Executive Magistrate and such Magistrate is vested with the power to decide the matter after considering the material that may be produced by the respective parties.

In view thereof, WPA 4114 of 2026 stands disposed of by giving liberty to the petitioners to produce all

materials in support of the claim of the petitioners at the appropriate stage.

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)